

June 16, 2020

EDWARD J. EMMONS, CLERK  
U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

1

2

3

Signed and Filed: June 16, 2020

4

5

6

DENNIS MONTALI  
U.S. Bankruptcy Judge

7

UNITED STATES BANKRUPTCY COURT

8

NORTHERN DISTRICT OF CALIFORNIA

9

In re: ) Bankruptcy Case  
PG&E CORPORATION, ) No. 19-30088-DM  
 )  
- and - ) Chapter 11  
 )  
PACIFIC GAS AND ELECTRIC COMPANY, ) Jointly Administered  
 )  
 )  
Debtors. )  
 )  
 )  
□ Affects PG&E Corporation )  
□ Affects Pacific Gas and )  
Electric Company )  
☒ Affects both Debtors )  
 )  
\* All papers shall be filed in )  
the Lead Case, No. 19-30088 (DM). )

20

21

**ORDER ON REMAINING OBJECTION OF CALIFORNIA STATE AGENCIES  
AND UNITED STATES OF AMERICA REGARDING PROPOSED GOVERNMENT  
ENTITY RELEASE**

22

23

24

25

26

27

28

The court has reviewed the proposed Government Entity Release ("Release") (Dkt. #7873) and the objections to the Release filed by the California State Agencies ("CSA") and joined by the United States (Dkt. #7917) (together, the "governmental agencies"). Whether the Trustee wants a "belt and suspenders" arsenal of documents to implement the Fire Victim

1 Trust ("FVT") or the governmental agencies stand on formality to  
2 resist signing the Release, is for another day. The documents  
3 establish that the Trustee's requirement is uncalled for under  
4 these circumstances. Accordingly, the Release will not be  
5 required from the governmental agencies<sup>1</sup>.

6 The governmental agencies voluntarily agreed to a reduction  
7 and subordination of billions of dollars of potential wildfire  
8 liabilities for a variety of reasons, including avoiding  
9 dilution of or competing with the wildfire claimants who will be  
10 paid by the Trustee from the FVT.

11 The CSA Settlement (Dkt. #6940-2) at ¶ 3.11 "inure[s] to  
12 the benefit of the Trustee, Claims Administrator . . .".  
13 Further, ¶ 3.4 recites that it is the "Entire Agreement", with a  
14 fairly typical integration clause. Finally, the CSA agree, in  
15 ¶ 2.2(e) to "have no role in the [FVT] administration,  
16 including, without limitation, the investment or monetization of  
17 any assets of the [FVT] or any decision relating to the  
18 individual and/or aggregate amount of the Fire Claims and  
19 punitive and exemplary damages thereon, all of which is under  
20 the sole determination of the Trustee . . .".

21 //

22 //

23 //

---

24

25 <sup>1</sup> The court is not going to deal further with the authorized  
26 Sur-reply filed by the Ad Hoc Group of Subrogation Claim Holders  
27 (Dkt. #7944). The point made is noted and for the reasons set  
28 forth in this order, the court's decision is "narrowly tailored"  
and not inconsistent with the clarification made on the record  
on October 23, 2019. (See Dkt. #7921-1 and footnote 3.)

1       There is a limited remedy available to the CSA if  
2 unfortunate circumstances follow<sup>2</sup>. On top of all that, at  
3 ¶ 2.2(h), the CSA release the FVT.

4       The Trustee's proposed Release seems overly broad. First,  
5 its title, following definitions, goes beyond a general release,  
6 namely "RELEASE AND INDEMNIFICATION." Next, it calls for a  
7 recital that the signatories acknowledge certain basics about  
8 the Plan (see ¶ B). Finally, for some unknown reason, it has a  
9 disclaimer that the Trust is not providing tax advice.

10      More importantly, ¶ A does not even appear to have a  
11 carveout for intentional wrongs or gross negligence although  
12 those provisions may be lurking somewhere else in other  
13 documents.

14      The court is sympathetic to the Trustee who needs certainty  
15 when he undertakes and carries out payment of tens of thousands  
16 of individuals or other private entities. The court prefers to  
17 believe that he and his professionals will perform in the  
18 expected proper manner, and thus does not need state or federal  
19 agencies to release him for doing what he has been hired to do.  
20 If he had worries about a vexatious litigant or there was a real  
21 threat presented under some other scenario, the court might be  
22 more understanding. Here, United States and the CSA do not  
23 represent such a threat that the Trustee's concerns should be  
24 taken seriously.

25      The court will not require execution of the Release from  
26 the governmental agencies before the Trustee makes payment to

---

28      <sup>2</sup> The court presumes, but has not studied again, the parallel provision of the United States' settlement agreement.

1 them on account of the claims subject to his administration.  
2 The court expects counsel to make sure consistent language will  
3 be set forth as necessary in the Order Confirming Plan, the Fire  
4 Victim Trust, the Claims Resolution Procedures or other  
5 necessary documents.

6 \*\*\*\*END OF ORDER\*\*\*\*  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28